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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,156	07/31/2001	Dany Berube	P015.01	3895

28802 7590 06/04/2003

AFX INC.
47929 FREMONT BLVD
FREMONT, CA 94538

EXAMINER

PEFFLEY, MICHAEL F

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 06/04/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,156

Applicant(s)

BERUBE, DANY

Examiner

Michael Peffley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Applicant's amendments and comments, received March 11, 2003, have been fully reviewed by the examiner. It is noted that applicant has filed a terminal disclaimer, which disclaimer is deemed acceptable and has obviated the double patenting issues. The following is a complete response to the March 11, 2003 communication.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 6 are unclear with the recitation of a "relatively uniform electromagnetic field pattern". A comparison has not been established to define what is meant by "relatively uniform". See MPEP 2173.05(b)(F).

Also, claim 4 is unclear for claiming a trademark brand (TEFLON). It is suggested the generic name (i.e. polytetrafluorethylene) be used. See MPEP 2173.05(u).

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Walinsky et al ('649).

Walinsky et al disclose a flexible ablation apparatus which includes a flexible body (208) comprising a coaxial delivery cable (210) connected to a high frequency

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energy source. Further, the device includes a monopole antenna (215) at the distal tip of the device. The examiner maintains that the device has a predetermined shape designed to treat a specific area (see Figure 5), and since there is no particular definition of what is meant by "relatively uniform electromagnetic field pattern" the Walinsky et al antenna is deemed to meet this limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walinsky et al ('649) in view of the teachings of Lenihan et al ('382) and Larsen (018).

Walinsky et al fail to disclose an encapsulation for the antenna tip.

Lenihan et al disclose a microwave antenna device, and specifically teach that it is known to encapsulate the antenna with a material such as silicone (col. 3, lines 65-68). The examiner maintains that the use of TEFLON as a suitable dielectric coating is generally well known in the antenna art, and Larsen provides evidence of this assertion (col. 5, line 44). It is also noted that Lenihan et al state that the Walinsky et al monopole antenna provides a uniform field pattern (see col. 2, lines 30-36).

To have provided the Walinsky et al antenna with a TEFLON coating to make it more biocompatible would have been an obvious modification for one of ordinary skill in the art, particularly since Lenihan et al teach that it is generally known to encapsulate

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microwave antennas and further since Larsen teaches of the well known use of TEFLON as a biocompatible dielectric material used in antenna devices.

Claims 7, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walinsky et al ('649) in view of the teaching of Moss et al ('803).

While Walinsky et al teach of sensing electrophysiological signals with electrodes (col. 4, lines 30-36), but fail to teach of providing the sensing electrodes on the catheter body.

Moss et al disclose an antenna device and specifically teach that it is known to provide ring electrodes (230,234) on the catheter device for sensing electrophysiological signals.

To have provided the Walinsky et al device with electrodes on the catheter surface for sensing electrophysiological signals would have been an obvious modification for one of ordinary skill in the art in view of Moss et al.

Response to Arguments

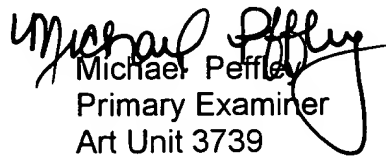
Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection. The new grounds of rejection result in a non-final Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (703) 308-4305. The examiner can normally be reached on Mon-Fri from 6am-3pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (703) 308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


Michael Peffley
Primary Examiner
Art Unit 3739

mp
May 30, 2003